

REMARKS

Applicant thanks the Examiner for review of the present application. Claims 1-25 were examined in the outstanding Office Action of December 20, 2005. A Second Preliminary Amendment was filed December 13, 2005, adding Claims 26-28 and correcting typographical errors appearing in Claims 7 and 20. The present Amendments indicate changes from the Second Preliminary Amendment, but Applicant notes that Claims 26-28 have not yet been considered and are effectively presented hereby as a matter of first impression for examination. Claims 1-30 are now pending in the present application.

The Office Action of December 20, 2005, allowed Claim 19, objected to Claims 4-5, 8-12, 16-17, and 21-25, and rejected Claims 1-3, 6, 7, 14, 15, 18, and 20. Claim 13 was previously cancelled. The Office Action rejected Claims 1-3, 6, 7, 14, 15, 18, and 20 under 35 U.S.C. § 102(b) as being anticipated by WO-97/47117 to Hawker et al. Claim 19 was allowed, and Claims 4, 5, 8-12, and 16-17 were objected to as presenting allowable subject matter but being dependent upon a rejected base claim.

Applicant has amended Claims 1, 7, 18, and 20 to more clearly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 1 and 7 have been amended to include the features of the attenuation being caused by a physical path limitation and also to define that the transducer is located adjacent the loudspeaker outlet. Claim 18 has been amended to define that the attenuation means is a restricted acoustical audio path and that the transducer is located adjacent the loudspeaker outlet. Applicant has also added Claims 29 and 30. Applicant provides the following remarks in response to the rejections of the Office Action.

Rejections Under 35 U.S.C. § 102(b) [§ 102(e)]

Applicant first notes that while WO-97/47117 to Hawker et al. is recited in the Office Action for the § 102(b) rejection and Response to Arguments, it appears from the citations, that the Office Action is combining citations and disclosures from both WO-97/47117 and related U.S. Patent 6,002,949 to Hawker et al., and that the Office Action appears to have intended the rejection to be in view of U.S. Patent 6,002,949. For example, the Office Action at page 2 refers to column 2, lines 8-25 ("C2, L8-25") which appears to be a citation to U.S. Patent 6,002,949, but the Office Action at page 4 refers to page 6, lines 30-36 ("page 6, L30-36") which appears to

be a citation to WO-97/47117. Also, reference numbers in citations to WO-97/47117 were not applicable, such as #48 which does not appear in WO-97/47117, which further points to either a confusion or combination of the WO-97/47117 and U.S. Patent 6,002,949 references. While the Hawker references are similar, they are not identical. Accordingly, Applicant requests clarification of which reference is being cited against the present application. Further, presuming U.S. Patent 6,002,949 is intended as being cited, Applicant notes that U.S. Patent 6,002,949 is not a proper § 102(b) reference, but could only qualify as a § 102(e) reference due to the priority date of October 8, 1999, of the pending application and the subsequent issue and publication date of U.S. Patent 6,002,949 of December 14, 1999.

Applicant provides that the Hawker references, specifically U.S. 6,002,949, disclose a wireless terminal that provides handset and handsfree modes with the use of a single transducer 20. The transducer is mounted within an enclosure having front 30 and back 32 chambers separated by a partition 28. The partition 28 separating the front and back enclosures contains internal vents 42 which can be opened or closed depending upon the position of a shutter 44. When the terminal operates in handset mode, the shutter 44 is opened and vents 42 are uncovered. This allowed lower frequency components of the sound produced by the transducer 20 to “bleed” into the back chamber 32, thus reducing the relative amplitude of the lower frequencies presented to the user through vents 40. Applicant submits that there is no disclosure or suggestion that the low frequency components of the sound are reduced by a physical path limitation in the acoustical audio path because opening the vents merely increases the physical dimensions of the acoustical audio path. Thus, Applicant submits that U.S. Patent 6,002,949 and similarly WO-97/47117 do not disclose or suggest “wherein the attenuation is caused by a physical path limitation of the second acoustical audio path between the transducer and the second outlet” as recited in amended Claims 1, 7, and 20 (emphasis added). Similarly, Applicant submits that the Hawker references fail to disclose or suggest any attenuation of the sound output by the transducer by restricting the acoustical audio path between the transducer and the outlet ports 40 (U.S. Patent 6,002,949) or 46 (WO-97/47117). Thus, Applicant submits that U.S. Patent 6,002,949 and WO-97/47117 do not disclose or suggest “wherein the attenuation means restricts the second acoustical audio path” as recited in amended Claim 18.

In U.S. Patent 6,002,949, the transducer 20 is mounted on the partition 28, adjacent an aperture 34. The aperture 34 allows sound to be passed from the transducer 20 into the front

chamber 30 for egress through apertures 40 in handset mode. The transducer is positioned at the opposite side of the back cavity 32 to the handsfree ports 48 and is, therefore, remote from the handsfree ports 48. There is no disclosure or suggestion in U.S. Patent 6,002,949, or in WO-97/47117, of the transducer being located adjacent the first outlet for egress of an acoustic signal when in a loudspeaker mode as recited in amended Claims 1, 7, and 18.

Applicant submits that the amendments to the claims and remarks presented above overcome the § 102(b) rejections of Claims 1, 7, 18, and 20, and Claims 2, 3, 6, 14, 15, and 21 depending respectively therefrom.

Further, Applicant submits that there is nothing disclosed or suggested in the Hawker references that would motivate a person skilled in the art to modify the teachings of either of the Hawker references to fall within the scope of the present invention as claimed. Rather, the Hawker references teach away from the claimed invention. Applicant also submits that there is no motivation to modify either of the Hawker references to provide attenuation of the acoustical audio path by providing a physical path limitation or a restricted audio path in earpiece mode, and, rather, that the Hawker references teach away from this aspect of the claimed invention. For example, U.S. Patent 6,002,949 teaches that in the handset mode, the vents 42 are opened to provide a less restricted path for the sound. Modifying U.S. Patent 6,002,949 to provide a physical path limitation or a restricted audio path would be against the teachings of the reference. Similarly, Applicant submits that there is no motivation to modify U.S. Patent 6,002,949 to locate the transducer adjacent to the loudspeaker outlet because if the transducer was placed adjacent to ports 48, the vents 42 would be obsolete and not function as intended for sound to “bleed” into the back chamber 32. The vents 42 would, therefore, not attenuate the acoustic signal. Modifying U.S. Patent 6,002,949 to locate the transducer adjacent to ports 48 would, therefore, be contrary to the teachings of the reference.

In view of the foregoing remarks, Applicant submits that each of independent Claims 1, 7, 18, and 20 are believed to be in condition for allowance, as well as dependent Claims 2-6, 8-12, 14-17, and 21-30. Accordingly, reconsideration for allowance of these claims is, therefore, respectfully requested. Claim 19 has previously been indicated as allowed, and Claims 4, 5, 8-12, and 16-17 were previously objected to as presenting allowable subject matter but being dependent upon a rejected base claim.

Conclusion

In view of the remarks presented above, Applicant submits that all of the pending Claims 1-12 and 14-30 of the present application are in condition for allowance. Accordingly, entry of the amendments and allowance of the application are respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicant's undersigned attorney in order to resolve any remaining issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper, such as fees for a request for an extension of time. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

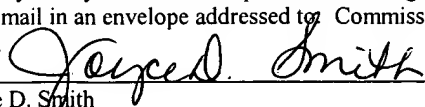


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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on March 8, 2006.


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